

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:06CR295
)	
v.)	
)	
KENNETH HEATH,)	ORDER
)	
Defendant.)	
)	

This matter is before the Court on defendant's two Motions to Reduce Sentence Pursuant to Crack Cocaine Amendment 706 (Filing Nos. 47 & 59), plaintiff's Motion to Reduce Sentence Pursuant to Rule 35(b) (Filing No. 50) and the parties' stipulation (Filing No. 60).

On August 27, 2008, the parties appeared through counsel. After considering the comments of counsel and the stipulation, the Court finds that the stipulation should be accepted and each of the motions should be granted. Accordingly,

IT IS ORDERED:

1) The parties' stipulation (Filing No. 60) regarding application of the retroactive amendments to the crack cocaine Guidelines is accepted. Under the retroactive amendments, defendant's total offense level is reduced from 33 to 31. Defendant's criminal history category remains at III, resulting in a Guidelines range of 135 to 168 months. Defendant's two Motions to Reduce Sentence Pursuant to Crack Cocaine Amendment 706 (Filing Nos. 47 & 59) are granted. A sentence of 135 months is reasonable under the amended guidelines.

2) Plaintiff's Motion to Reduce Sentence Pursuant to Rule 35(b) (Filing No. 50)

is likewise granted. Defendant is hereby committed to the custody of the Bureau of Prisons for a term of 90 months.

3) Defendant is to be given credit for time previously served under the original Judgment dated May 2, 2007 (Filing No. 36).

4) All other terms and conditions of the Judgment dated May 2, 2007, remain in full force and effect.

5) The transcript of the hearing held on August 27, 2008 is ordered sealed.

DATED this 28th day of August, 2008.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge receipt of a copy of this judgment this _____ day of _____, 200___.

RETURN

It is hereby acknowledged that the defendant was delivered on the _____ day of _____, 200__ to _____, with a certified copy of this judgment.

UNITED STATES WARDEN

By: _____

NOTE: The following certificate must also be completed if the defendant has not signed the Acknowledgment of receipt, above.

CERTIFICATE

It is hereby certified that a copy of this judgment was served upon the defendant this _____ day of _____, 200____.

UNITED STATES WARDEN

By: